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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,266	02/20/2004	Mark E. Kirby	1051.10	2265
21901	7590	06/27/2006		
SMITH HOPEN, PA 180 PINE AVENUE NORTH OLDSMAR, FL 34677			EXAMINER SPISICH, MARK	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 06/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,266

Applicant(s)

KIRBY, MARK E.

Examiner

Mark Spisich

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Concavity" (claim 3, line 4) should be – convexity – and "concavities" (claim 3, line 4) should be – convexities --. Applicant should review the claims for any additional informalities.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (USP Des446895) in view of Galvan Garza (USP 5,836,034). The patent to Denney discloses a (sponge) mop head having a generally parallelepiped structure and further wherein there are a plurality of longitudinally extending projections formed in the bottom wall thereof (see the figures). The patent to Denney discloses the invention substantially as claimed with the exception of the projecting portions being in the form of convexities. The recitation of the intended use of the sponge fails to define over the structure of the prior art. The patent to Galvan Garza discloses a sponge (4) with a plurality of projecting ridges (6) with rounded tips (5) (column 2, line 1) (eg, figure 5). It would have been obvious to one of ordinary skill to have modified the projecting

Art Unit: 1744

portions of Denney as such so that the sponge would more smoothly move across a floor surface. The reference in claim 2 to the depth of the concavity is noted; however, references to the work or article to be cleaned do not form part of the claimed device. Any sponge disclosed as a mop head would be "adapted" to be attached to the end of a handle.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Boggs (USP 5,640,737). The prior art discloses the invention substantially as claimed with the exception of the particular sponge material. The patent to Boggs discloses a cleaning sponge of reticulated polyester with a density of .7 to 6 pounds per cubic foot (column 2, lines 33-41). It would have been obvious to one of ordinary skill to have modified the sponge of Denney as such as it is shown to be an art-recognized equivalent foam material.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denney (USP D446,616) in view of Galvan Garza (USP 5,836,034). The patent to Denney discloses a sponge with a plurality of curvilinear projection on a bottom wall thereof and fails only to disclose the projection having a convexity. It would have been obvious to one of ordinary skill to have modified the device of Denney in view of Galvan Garza for the same reason set forth above.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 7 above, and further in view of Boggs (USP 5,640,737). The use of the particular foam material of claims 8 and 9 is taught by Boggs and it

Art Unit: 1744

would have been obvious to have modified the device of Denney for the reason set forth above.

Allowable Subject Matter

7. Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

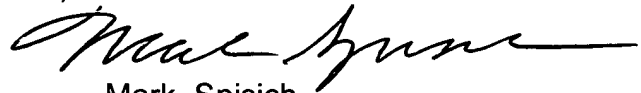
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Bornemann shows a sponge with a plurality of convexities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Spisich
Primary Examiner
Art Unit 1744

MS